

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

DATE: July 13, 2010

JUDGE
LEONARD DAVIS

REPORTER: Shelly Holmes

LAW CLERK: Kat Li

NETWORK-1 SECURITY SOLUTIONS V CISCO SYSTEMS, et al	CIVIL ACTION NO: 6:08-CV-30 JURY TRIAL - DAY 2
ATTORNEYS FOR PLAINTIFFS	ATTORNEY FOR DEFENDANT
Greg Dovel (Dovel & Luner) John Eichmann (Dovel & Luner) Johnny Ward (Ward & Smith)	William Lee (Wilmer Cutler Pickering) Mark Selwyn (Wilmer Cutler Pickering) David Beck (Beck Redden & Secrest) Otis Carroll (ICK Firm) Eric Findlay (Findlay Craft) <i>For Cisco</i> David Bahler (Fulbright & Jaworski) Gilbert Greene (Fulbright & Jaworski) <i>For Adtran</i> Richard Vasquez (Vasquez Benisek & Lindgren) Bill Cornelius (Wilson Law Firm) <i>For Enterasys</i> Ken Adamo (Jones Day) Behrooz Shariati (Jones Day) <i>For Extreme</i> Henry Bunsow (Howrey Simon Arnold) John Hamann (Howrey) Sonny Cherian (Howrey) Calvin Capshaw (Capshaw & DeRieux) <i>For Foundry</i> Jeff Ostrow (Simpson Thacher Bartlett) Kerry Konrad (Simpson) <i>For 3Com</i>

On this day, came the parties by their attorneys and the following proceedings were had:

DAVID J. MALAND, CLERK

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BY: Rosa L. Ferguson, Courtroom Deputy

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OPEN:**ADJOURN:**

TIME:	MINUTES:
9:15 am	Jury seated in the courtroom.
	Court addressed the Jury and welcomed them back.
	DR. JAMES KNOX on the witness stand. Cross examination of Dr. Knox by Mr. Lee continued. Mr. Lee offered Defendants' Exhibit #131 , and without objection, exhibit admitted. Mr. Lee offered Defendants' Exhibit #1514 , and without objection, exhibit admitted.
	Mr. Lee passed the witness.
10:35 am	Court in recess until 10:50 a.m.
10:50 am	Jury seated in the courtroom.
	Redirect examination of Dr. Knox by Mr. Dovel.
	Mr. Dovel passed the witness. Recross examination of Dr. Knox by Mr. Lee.
	Mr. Lee passed the witness. Redirect examination of Dr. Knox by Mr. Dovel.
	Mr. Dovel passed the witness.
.	Mr. Eichmann addressed the Court and offered Plaintiff's Exhibit List #1 of exhibits admitted yesterday. Without objection, Court admitted Plaintiff's Exhibit List #1 , which lists Plaintiff's Exhibits #1-3, 15, 17, 19, 20, 21, 23, 26, 33, 34, 35, 38, 42, 46, 47, 53, 57, 59, 74, 76, 82 - 88, 89A, 89B, 90, 99, 101, 103, 107, 112, 120, 141, 144, 145, 147, 155, 157, 165, 179, 187, 195, 201, 222, 224, 226, 227, 247, 266, 277, 279, 290, 293, 300A, 302, 309, 312, 327, 330, 332, 334, 340, 343, 344, 528, 576-579, 581 & 583. Mr. Eichman then offered Plaintiff's Exhibits #82, 88, 101, 132, 143, 302, 326, 342, 393, 397-401, 403, 423, 442-444, 502, 512, 514-516, 518, 519, 528, 540, 570, 571, 573 & 580 , and without objection, exhibits admitted.
	Mr. Ward called COREY HOROWITZ to the witness stand. Witness previously sworn.
	Direct examination of Mr. Horowitz by Mr. Ward.
11:45 am	Court in recess until 1:00 p.m.
1:00 pm	Trial resume. Jury seated in the courtroom.
	Direct examination of Mr. Horowitz by Mr. Ward continued. Mr. Ward offered Plaintiff's Exhibit #572 & 573 and without objection, exhibits admitted.

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TIME:	MINUTES:
	Mr. Ward passed the witness. Cross examination of Mr. Horowitz by Mr. Lee. Mr. Lee offered Defendants' Exhibit 24 , and without objection exhibit admitted. Mr. Lee offered Defendants' Exhibit 48 , and without objection exhibit admitted. Mr. Lee offered Defendants' Exhibit 1506 , and without objection exhibit admitted. Mr. Lee offered Defendants' Exhibit 19 , and without objection exhibit admitted. Mr. Lee offered Defendants' Exhibit 1502 , and without objection exhibit admitted. Mr. Lee offered Defendants' Exhibit 1498 , and without objection exhibit admitted. Mr. Lee offered Defendants' Exhibit 1500 , and without objection exhibit admitted. Mr. Lee offered Defendants' Exhibit 1504 , and without objection exhibit admitted.
	Mr. Lee passed the witness. Cross examination of Mr. Horowitz by Mr. Bunsow on behalf of Foundry. Mr. Bunsow offered Defendants' Exhibit #1317 and without objection, exhibit admitted. Mr. Bunsow offered Defendants' Exhibit #1327 and without objection, exhibit admitted. Mr. Ward asked to approach the bench. Bench conference held.
	Cross examination of Mr. Horowitz by Mr. Bunsow continued. Mr. Bunsow offered Defendants' Exhibit #1328 and without objection, exhibit admitted. Mr. Bunsow offered Defendants' Exhibit #1333 and without objection, exhibit admitted.
	Mr. Bunsow passed the witness. Redirect examination of Mr. Horowitz by Mr. Ward.
	Mr. Ward passed the witness. Recross examination of Mr. Horowitz by Mr. Lee.
	Mr. Lee offered Defendants's Exhibits #1506, 1510 & 1511 , and without objection, exhibits admitted.
2:20 pm	Court in recess until 2:40.
2:35 pm	Trial resumed. Jury not present in the courtroom.
	Mr. Beck addressed the Court regarding Dr. Wecker's survey and Mr. Mill's reliance on that. Mr. Beck asked that Mills not be permitted to testify with respect to any damages related to the IP phones or the wireless access unless they call Dr. Wecker. Mr. Eichmann responded. Court inquired if any of the Defendants' witnesses are going to be relying on a survey that forms part of their damage model. Mr. Eichmann responded. Mr. Beck responded. Court inquired how it would prejudice defendants if it reduces his damage model by what Dr. Wecker testified to. Mr. Beck responded. Mr. Eichmann responded. Court ruled that witness cannot rely on the survey unless Wecker testifies. Mr. Adamo addressed the Court on Dr. Wecker's survey. Mr. Eichmann asked for clarification. Mr. Adamo further addressed the Court. Court ruled that there be no testimony as to Wecker's Survey.
	Mr. Selwyn addressed the Court on objection to a slide regarding the damage expert's opinion in the D-Link case. Court sustained objection.
	Court advised parties that it has a hearing at 4:00 p.m. Court inquired of witness where he needed to be tomorrow. Court and parties discussed timing.
	Court asked for the jury to be brought in. Jury entered and seated in the courtroom.
	Mr. Eichmann called ROBERT MILLS to the witness stand. Witness previously sworn.
	Direct examination of Mr. Mills by Mr. Eichmann.

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TIME:	MINUTES:
	Mr. Beck asked to approach the bench. Bench conference held.
	Direct examination of Mr. Mills by Mr. Eichmann continued. Mr. Eichmann offered Plaintiff's Exhibits 464 - 471 , and without objection, exhibits admitted.
	Mr. Eichmann passed the witness.
	Court addressed the Jury and will give the Jury a recess for 15 minutes.
4:00 pm	Court asked Mr. Ward to approach bench. (Off the Record discussion held).
	Court in recess to hold other proceeding in a criminal case.
4:20 pm	Trial resumed. Jury seated in the courtroom.
	Cross examination of Mr. Mills by Mr. Beck.
	Mr. Beck passed the witness. Redirect examination of Mr. Mills by Mr. Eichmann.
	Mr. Mills passed the witness. Recross examination of Mr. Mills by Mr. Beck.
	Mr. Beck passed the witness. Cross examination of Mr. Mills by Mr. Bunsow.
	Mr. Bunsow passed the witness. Redirect examination of Mr. Mills by Mr. Eichmann.
	Mr. Eichmann passed the witness. Witness excused.
	Court addressed the Jury and will recess them until tomorrow morning. Court reminded Jury of its instructions. Jury excused from the courtroom.
5:15 pm	Court addressed the parties and reminded the gallery to remain in the courtroom to allow the jury to leave the building.
	Mr. Vasquez addressed the Court and he has a witness for 5 minutes on the bench trial portion. Court will allow.
	Court addressed the parties on Judge Faulkner being available this evening and his schedule. Court instructed counsel for each defendants and decision makers to remain in the courtroom and Judge Faulkner will utilize the chambers.
	Mr. Adamo asked for the parties' times. Court addressed the parties and Plaintiff has used 6 hours and Defendant has used 4 hours.
	Court inquired as to plaintiff's witnesses. Mr. Dovel responded that they will have video testimony.
	Mr. Ostrow addressed the Court on witnesses being sworn. Court will be flexible.
	Court asked that exhibits be admitted en masse.
	Mr. Adamo addressed the Court on Rule 50 motions. Court advised that it would hear at the lunch hour. Court encouraged parties to work hard to get case resolved.
5:20 pm	There being nothing further, Court adjourned for the day.